

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

RICHARD RAWLEIGH,

Petitioner

04-CV-0729S

v.

NEW YORK STATE DIVISION OF PAROLE,

Defendant.

DECISION AND ORDER

Pursuant to 28 U.S.C. § 636(c), the parties have consented to the assignment of this case to the undersigned to conduct all proceedings in this matter, including the entry of final judgment. Dkt. #20.

Petitioner Richard Rawleigh commenced this action, pursuant to 28 U.S.C. § 2254, challenging the revocation of his parole. Dkt. #4. By letter dated February 7, 2008, the Assistant Attorney General advised the Court that petitioner had been released from custody of the New York State Division of Parole on March 9, 2005. The New York State Department of Correctional Services Inmate Information Site confirms that petitioner was released from the Gowanda Correctional Facility on March 9, 2005. See <http://nysdocslookup.docs.state.ny.us>.

By Decision and Order entered March 21, 2008, the Court recognized that “[w]here, as here, a petitioner’s habeas petition challenges parole revocation proceedings, his petition becomes moot when he is released from custody unless he is able to demonstrate collateral consequences stemming from the parole revocation proceedings.”

Razzoli v. U.S. Parole Commission, 2004 WL 2367965 (2d Cir. 2004 (unpublished opinion), citing *Spencer v. Kenna*, 523 U.S. 1, 7 (1998); see *United States v. Probber*, 170 F.3d 345, 347-48 (2d Cir. 1999) (“an individual challenging the revocation of his parole – and whose term of re-incarceration has expired – bears the burden of demonstrating that some concrete and continuing injury continues to flow from the fact of the revocation.”). As a result, the Court directed that the petition be dismissed as moot unless petitioner demonstrated to the Court, within 30 days that he continued to suffer consequences as a result of the revocation of his parole. Dkt. #21.

The Decision and Order was returned to sender as petitioner has failed to provide the Court with an updated address. Rule 5.2(d) of the Local Rules of Civil Procedure provides that

A party appearing pro se must furnish the Court with a current address at which papers may be served on the litigant. Papers sent to this address will be assumed to have been received by plaintiff.

In addition, the Court must have a current address at all times. Thus, a *pro se* litigant must inform the Court immediately in writing of any change of address. Failure to do so may result in dismissal of the case with prejudice.

Accordingly, it is hereby **ORDERED** that the petition be dismissed with prejudice. The Clerk of the Court is directed to take the necessary steps to close this case.

SO ORDERED.

**DATED: Buffalo, New York
May 8, 2008**

/s/ J. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge